

(a) *Single Family Housing.* Sales steps will be the same as for program properties as provided in §1955.114(a) of this subpart, except that sales must be for cash in accordance with §1955.118 or credit on NP terms as provided in subpart J of part 1951 of this chapter. See exhibit D of this subpart (available in any FmHA or its successor agency under Public Law 103-354 office) which outlines chronologically the sales steps for NP properties.

(1) *Sale by sealed bid or auction.* If a NP property has not sold within 150 days after being offered for sale, the inventory case file with documentation of marketing efforts will be submitted to the State Director. The State Director will authorize sale by sealed bid or auction in accordance with §1955.112(c) of this subpart unless additional sales methods appear more prudent. Use of the sealed bid or auction method may be considered as an initial sales effort under special or unusual circumstances such as, but not limited to, structures which have been substantially destroyed by fire or other causes.

(2) *Sale as chattel.* If efforts to sell NP property by sealed bid or auction prove unsuccessful, the structure(s) may be sold as chattel (for chattel or salvage value, as appropriate) when authorized by the State Director. When the structure is to be sold as chattel (exclusive of land) further guidance is provided in §§1955.121, 1955.122 and 1955.141(b) of this subpart. If no offer is received, the structure(s) may be demolished and removed from the site and then the site offered for sale. If this method is utilized, FmHA or its successor agency under Public Law 103-354 will attempt to have the structure removed in exchange for the salvageable materials by contract, otherwise, will solicit for contracts to have the structure removed in accordance with FmHA or its successor agency under Public Law 103-354 Instruction 2024-A (available in any FmHA or its successor agency under Public Law 103-354 office).

(3) *Sale of vacant land.* When FmHA or its successor agency under Public Law 103-354 has vacant land in inventory which was security for an SFH loan, the land will be sold in accordance with this subparagraph. When the lot meets the requirements of 7 CFR

part 3550, and a program applicant desires to purchase the lot and construct a dwelling, a credit sale will not be made. Instead, one section 502 loan will be made which will include funds for the purchase of the lot and construction of a dwelling. Otherwise, the lot will be sold for cash or on NP terms with a loan not to exceed ten years in term and amortization.

(b) *Multiple family housing.* Sales steps will be the same as for program MFH property as provided in §1955.114(b) of this subpart except that sales must be for cash or on NP terms as set forth in §1955.118 of this subpart. Additionally, if cash offers are received, they will be given first preference by drawing from the cash offers only. If the State Director determines an auction sale should be used to sell NP MFH property, authority to use that method of sale must be requested from the Assistant Administrator, Housing. Inventory files, including information on the acquisition, marketing efforts made, management of the property, other pertinent information, a memorandum covering the facts of the case, and recommendations of the State Director must be submitted for review. If the housing is sold out of the FmHA or its successor agency under Public Law 103-354 program as NP property, the closing of the sale may not take place until tenants have received all notifications and benefits afforded to tenants in prepaying projects in accordance with 7 CFR part 3560, subpart N.

[53 FR 27833, July 25, 1988, as amended at 58 FR 38928, July 21, 1993; 58 FR 52652, Oct. 12, 1993; 67 FR 78329, Dec. 24, 2002; 69 FR 69106, Nov. 26, 2004]

§1955.116 Requirements for sale of property not meeting decent, safe and sanitary (DSS) standards (housing).

For real property (exclusive of improvements) which is unsafe, refer to §1955.137(e) of this subpart for further guidance. For all other housing inventory property which does not meet decent, safe and sanitary (DSS) standards, the provisions of this section apply.

(a) *Notices and advertising.* If the inventory property has a single family

dwelling or MFH unit thereon which does not meet DSS standards as defined in §1955.103 of this subpart, but which could meet such standards through the repair or renovation activities of the future owner, any "Notice of Real Property For Sale," "Notice of Sale," or other advertisement used in conjunction with advertising the property for sale must include the following language which is contained in Form FmHA or its successor agency under Public Law 103-354 1955-44, "Notice of Residential Occupancy Restriction":

This property contains a dwelling unit or units which FmHA or its successor agency under Public Law 103-354 has deemed to be inadequate for residential occupancy. The Quitclaim Deed by which this property will be conveyed will contain a covenant restricting the residential unit(s) on the property from being used for residential occupancy until the dwelling unit(s) is repaired, renovated or razed. This restriction is imposed pursuant to section 510(e) of the Housing Act of 1949, as amended, 42 U.S.C. 1480. The property must be repaired and/or renovated as follows*:

*For advertisements, the sentence preceding the asterisk may be deleted and replaced with the following, or similar sentence: "Contact FmHA or its successor agency under Public Law 103-354 (or any real estate broker/name of exclusive broker) for a list of items which must be repaired/renovated." For notices other than advertising, insert those items which are necessary to make the dwelling unit(s) meet DSS standards. Examples are:

- Replace flooring and floor joists in kitchen and bathroom.
- Drill new well to provide for an adequate and potable water supply.
- Hook-up to community water and sewage system now being installed.
- Provide a functionally adequate, safe and operable* system. *Insert heating, plumbing, electrical and/or sewage disposal, etc., as appropriate.
- Install*. *Insert new roof, foundation, sump pump, bathroom fixtures, etc., as appropriate.
- Install R-* insulation in basement walls or ceiling, R-* insulation in attic, and storm windows/doors throughout. *Insert appropriate R-Values to meet Thermal Performance Standards.

(b) *Sale agreements.* If a housing structure in inventory does not meet DSS standards, Form FmHA or its successor agency under Public Law 103-354 1955-44 must be attached to Forms FmHA or

its successor agency under Public Law 103-354 1955-45 or FmHA or its successor agency under Public Law 103-354 1955-46, as appropriate, to provide notification of the deed restriction and required repairs/renovations before the dwelling can be used for residential purposes.

(c) *Quitclaim Deed.* The following, the original of Form FmHA or its successor agency under Public Law 103-354 1955-44, or similar restrictive clause adapted for use in an individual State pursuant to a State Supplement approved by OGC must be added to the Quitclaim Deed for properties which do not meet DSS standards at the time of sale but which could through the repair/renovation activities of the future owner:

Pursuant to section 510(e) of the Housing Act of 1949, as amended, 42 U.S.C. 1480(e), the purchaser ("Grantee" herein) of the above-described real property (the "subject property" herein) covenants and agrees with the United States acting by and through Farmers Home Administration or its successor agency under Public Law 103-354 (the "Grantor" herein) that the dwelling unit(s) located on the subject property as of the date of this Quitclaim Deed will not be occupied or used for residential purposes until the item(s) listed at the end of this paragraph have been accomplished. This covenant shall be binding on Grantee and Grantee's heirs, assigns and successors and will be construed as both a covenant running with the subject property and as equitable servitude. This covenant will be enforceable by the United States in any court of competent jurisdiction. When the existing dwelling unit(s) on the subject property complies with the aforementioned standards of the Farmers Home Administration or its successor agency under Public Law 103-354 or the unit(s) has been completely razed, upon application to the Farmers Home Administration or its successor agency under Public Law 103-354 in accordance with its regulations, the subject property may be released from the effect of this covenant and the covenant will thereafter be of no further force or effect. The property must be repaired and/or renovated as follows*." *Insert the same items referenced in the listing notice(s) and sale agreement which are necessary to make the dwelling unit(s) meet DSS standards.

(d) *Release of restrictive covenant.* Upon request of the property owner for a release of the restrictive covenant, FmHA or its successor agency under Public Law 103-354 will inspect the

property to ensure that the repairs/renovations outlined in the restrictive covenant have been properly completed or the structure(s) razed. A State Supplement outlining the procedure for releasing the restrictive covenant will be issued with the advice of OGC.

[53 FR 27834, July 25, 1988]

§ 1955.117 Processing credit sales on program terms (housing).

The following provisions apply to all credit sales on program terms:

(a) *Offers.* Form FmHA or its successor agency under Public Law 103-354 1955-45 will be used to document the offer and acceptance for regular FmHA or its successor agency under Public Law 103-354 sales. The contract is accepted prior to processing Form FmHA or its successor agency under Public Law 103-354 410-4, "Application for Rural Housing Assistance (Non-Farm Tract)," for SFH property with the provision that acceptance is subject to program approval. MFH property sales require an application package comparable to that submitted for the respective loan program application.

(b) *Processing.* The FmHA or its successor agency under Public Law 103-354 regulations pertaining to the type of credit being extended will be followed in making credit sales on program terms except as modified by the provisions of this section. All MFH credit sales may be made for up to 100 percent of the current market value of the security, less any prior lien. However, if a profit or limited profit applicant desires to earn a return, the applicant will be required to contribute at least 3 percent of the purchase price as a cash downpayment. All credit sales of RRH, RCH, and LH properties will be subject to prepayment and restrictive-use provisions specified by the respective program requirements.

(c) *Approval.* Forms FmHA or its successor agency under Public Law 103-354 1940-1 or RD 3560-51, as appropriate, will be used to approve a credit sale even though no obligation of funds is required.

(d) *Downpayment.* When a downpayment is made, it will be collected at closing.

(e) *Interest rate.* Upon request of the applicant, the interest rate charged by

FmHA or its successor agency under Public Law 103-354 will be the lower of the interest rate in effect at the time of loan approval or closing. If the applicant does not indicate a choice, the loan will be closed at the rate in effect at the time of loan approval.

(f) *Closing costs.* MFH purchasers will pay closing costs from their own funds. Where necessary, SFH purchasers who qualify may be made a subsequent loan to pay closing costs in an amount not to exceed 1 percent of the sale price of the dwelling. Any closing costs which are legally or customarily paid by the seller will be paid by FmHA or its successor agency under Public Law 103-354 and charged to the inventory account as a nonrecoverable cost items.

(g) *Closing sale.* Title clearance, loan closing and property insurance requirements for a credit sale, and any loan closed simultaneously with the credit sale, are the same as for a program loan of the same type except:

(1) The property will be conveyed in accordance with § 1955.141(a) of this subpart.

(2) Earnest money, if any, will be used to pay purchaser's closing costs with any balance of closing costs being paid from the purchaser's personal funds except as provided in paragraph (f) of this section. For SFH credit sales and MFH credit sales to nonprofit organizations or public bodies, any excess deposit will be refunded to the purchaser. For MFH credit sales to profit or limited profit buyers, any excess earnest money deposit will be credited to the purchase price and recognized as a part of the purchaser's initial investment.

(3) The County Supervisor or District Director will provide the closing agent with the necessary information for closing the sale. The assistance of OGC will be requested to provide closing instructions in exceptional or complex cases and for all MFH sales.

(h) *Reporting.* After the sale is closed, it will be reported according to § 1955.142 of this subpart.

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